

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

|  |   |                           |
|--|---|---------------------------|
| Dennis Temple, #274802,                      | ) | C/A No. 8:13-3426-JFA-JDA |
|  | ) |                           |
| Plaintiff,                                   | ) |                           |
|  | ) |                           |
| vs.  | ) | ORDER                     |
|  | ) |                           |
| Chaplain Unknown Morrison; Warden Joseph     | ) |                           |
| McFadden; Associate Warden Fred Thompson;    | ) |                           |
| Associate Warden James Blackwell; Chaplain   | ) |                           |
| James Cuttino; Muslim Chaplin Tami Abdul     | ) |                           |
| Mutakabbir, in their individual and official | ) |                           |
| capacities,                                  | ) |                           |
|  | ) |                           |
| Defendants.                                  | ) |                           |
|  | ) |                           |

The *pro se* plaintiff, Dennis Temple, brings this action pursuant to 42 U.S.C. § 1983 raising various allegations that his constitutional and statutory rights have been violated in relation to his religious worship services.

The Magistrate Judge<sup>1</sup> has prepared a Report and Recommendation wherein she suggests that the plaintiff has failed to effect timely service of process of the complaint on defendant Chaplain Morrison as required under Fed. R. Civ. P. 4(m), and thus, defendant Morrison should be dismissed as a party defendant. The Report sets forth in detail the

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<sup>1</sup> The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

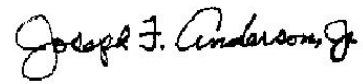
The plaintiff was advised of his right to file objections to the Report and Recommendation and he has timely done so. In his objection memorandum, the plaintiff argues that the defendants have failed to respond to his requests for production and as a result, plaintiff was and is unable to submit a new summons and USM 285 form with a more accurate address. Plaintiff then blames his failure on his lack of skill and training in law and his inability to get a pass to the law library to research the rule. He further contends that his cases are being hindered because of reduced hours and days at the law library. Finally, plaintiff makes the comment that the district court denied his motion to enforce relief, and “expects plaintiff to follow the Federal Rules of Civil Procedure while shackles are placed on his entry into the law library.”

This undersigned is not persuaded by plaintiff’s various excuses for not submitting a new summons or Form USM 285 as he was previously instructed and apprised by the Magistrate Judge to do. Accordingly, his objections are overruled.

After a careful review of the record, the applicable law, the Report and Recommendation, the court adopts the Magistrate Judge’s recommendation and incorporates it herein by reference.

Accordingly, defendant Chaplain Unknown Morrison is dismissed from this action without prejudice for failure of service of process. The Clerk is directed to return the file in this case to the Magistrate Judge.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.  
United States District Judge

July 23, 2014  
Columbia, South Carolina